

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )

Communications Assistance for )  
Law Enforcement Act )

CC Docket No. 97-213

To: The Commission

**COMMENTS OF PAGING NETWORK, INC.**

Paging Network, Inc. ("PageNet"), by its attorneys, and pursuant to Public Notice, DA 98-762, released on April 20, 1998, hereby provides its comments in support of a blanket extension of time to comply with the assistance capability requirements of Section 103 of the Communications Assistance For Law Enforcement Act ("CALEA"). PageNet wishes to emphasize that it will continue to provide law enforcement with assistance within the capabilities of its networks during any extension period. In support of these Comments, the following is respectfully shown:

**I. INTRODUCTION**

PageNet operates numerous paging, narrowband PCS and 900 MHz SMR networks. As a commercial mobile radio services ("CMRS") provider, PageNet is a "telecommunications carrier" as defined in Section 102(8) of CALEA,<sup>1</sup> and is required to meet the Section 103 capability requirements for equipment, services or facilities installed or deployed after January 1, 1995. As of the date of these Comments, a CALEA assistance capability standard for paging, narrowband PCS, and SMR systems has not been established.

<sup>1</sup> 47 U.S.C. § 1001(8)(B)(i).

## II. THE PROVISION OF CLONE PAGERS TO LAW ENFORCEMENT SATISFIES THE INTENT OF THE SECTION 103 CAPABILITY REQUIREMENTS FOR TRADITIONAL MESSAGING SYSTEMS

To date, no final CALEA capability standards have been adopted for any service. Since the enactment of CALEA, industry associations have been working with law enforcement in order to develop CALEA capability standards for two-way voice networks, but law enforcement agencies have not had adequate time or resources to assist in establishing a CALEA capability standard for paging, narrowband PCS, and SMR.<sup>2</sup> There are many reasons why law enforcement would wish to focus their resources initially on two-way voice systems. One reason is that, through the use of clone pagers, traditional paging systems satisfy the intent of the requirements of Section 103 of CALEA today.<sup>3</sup> Paging carriers already provide law enforcement with the maximum assistance capability that would be realistically expected from these messaging systems. However, absent a capability standard or a formal statement from law enforcement that pager cloning will be considered as CALEA capability compliant, PageNet believes that

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<sup>2</sup> For example, law enforcement excluded paging, narrowband PCS, and SMR from its *Final Capacity Notice* stating:

CALEA applies to all telecommunications carriers as defined in section 102(8). Capacity notices *will eventually be issued covering all telecommunications carriers. However, this Final Notice of Capacity should be viewed as the first phase applicable to telecommunications carriers offering services that are of most immediate concern to law enforcement – that is, those telecommunications carriers offering local exchange services and certain commercial mobile radio services, specifically cellular service and personal communications service (PCS).* For the purpose of this notice, PCS is considered a service operating in the licensed portion of the 2 GHz band of the electromagnetic spectrum, from 1850 MHz to 1990 MHz.

*Final Capacity Notice*, 63 FR 12218, 12220 (1998) (emphasis added). This passage reflects the fact that law enforcement apparently wishes to implement capability standards in phases starting with two-way voice. The messaging phase of this process will not be completed and implemented by October 25, 1998.

<sup>3</sup> Cloning allows law enforcement to receive each message that is directed at the target, simultaneously with and invisible from the target's receipt of messages.

traditional paging, as well as all other services, should be included in a blanket extension of time to establish and comply with the Section 103 capability requirements.

### **III. COMPLIANCE IS NOT REASONABLY ACHIEVABLE**

Section 107(c) of CALEA provides that a telecommunications carrier may petition the Commission for an extension of the deadlines for complying with the Section 103 assistance capability requirements. 47 U.S.C. § 1006(c)(1). After consultation with the Attorney General, the Commission may grant an extension if compliance with the assistance capability requirements is not reasonably achievable through application of technology available within the compliance period. 47 U.S.C. § 1006(c)(2). As shown below, under Section 107(c) of CALEA, telecommunications carriers are entitled to an extension of the compliance deadline.

#### **A. A Blanket Extension Is Appropriate Because There Is No Standard For Section 103 Capability Requirements**

Because there is no final standard, there is no basis for determining whether assistance capabilities developed by the manufacturers and deployed by carriers are truly CALEA compliant. As such, CALEA compliance is not reasonably achievable for paging, narrowband PCS and SMR carriers, as well as the other telecommunications carriers.

#### **B. CALEA Compliant Equipment Will Not Be Available to Carriers in a Timely Manner Without Standards**

On March 30, 1998, AT&T Wireless, Lucent and Ericsson filed a Joint Petition for Extension of the CALEA Compliance Date (the "Joint Petition") stating that they would not be able to provide CALEA-compliant technology by the compliance date and for at least two years thereafter.<sup>4</sup> Without a final standard, no manufacturer has a true benchmark by which to measure compliance and, because of the significant expense, equipment vendors cannot be

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<sup>4</sup> Joint Petition at 9.

expected to develop additional assistance capabilities until the final standard has been established. As such, because telecommunications carriers cannot comply with assistance capability requirements of Section 103 through application of technology available within the compliance period, they are entitled to an extension under Section 107(c) of CALEA.

### **C. Additional Evaluation Criteria**

In the Commission's rulemaking notice related to CALEA implementation, the Commission proposed to permit carriers to file for extensions under Section 107(c) using the specific criteria in Section 109 of CALEA.<sup>5</sup> 47 U.S.C. § 1008(b)(1). Although not all of the Section 109 factors are relevant,<sup>6</sup> a discussion of the effects of an extension on: (1) public safety and national security; (2) the nature and cost of the equipment, facility or service at issue, and the financial resources of the telecommunications carrier, and (3) competition and the provision of new technologies and services may assist the Commission in its evaluation of this extension request.

#### **1. Public Safety**

The public safety and national security will not be compromised by the grant of a blanket compliance extension. PageNet and other telecommunications carriers will continue to provide law enforcement with the assistance capabilities present in its networks.

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<sup>5</sup> *Notice of Proposed Rulemaking*, CC Docket No. 97-213, released October 10, 1997 at ¶ 50.

<sup>6</sup> The Section 109 factors appear to anticipate that an assistance capability standard has in fact been established.

2. Financial Resources of the Carrier

No amount of money could bring the networks of telecommunications carriers into compliance by the October 25, 1998 deadline because there is no benchmark by which to determine compliance.

3. Competition


Failure to extend the CALEA deadline will have a substantial adverse impact on competition. If a blanket extension is not granted, carriers may be unable to introduce new services or undertake upgrades of existing networks because such services and modifications must be CALEA capability compliant. Absent an extension, competition in the telecommunications marketplace will be halted because of the inability of manufacturers and carriers to offer new services or upgrade and modify their systems.

**WHEREFORE**, for the reasons stated in these Comments, PageNet supports a blanket extension of the CALEA compliance date to October 24, 2000, effective on or before October 25, 1998.

Respectfully submitted,

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